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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,067	10/19/2001	John E. Madocks	10630/9	3885

7590

11-13/2003

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EXAMINER

ZERVIGON, RUDY

ART UNIT

PAPER NUMBER

1763

DATE MAILED: 11/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/036,067

Applicant(s)

MADOCKS, JOHN E.

Examiner

Rudy Zervigon

Art Unit

1763

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-33

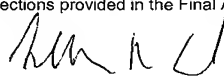
Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: Applicant states on page 2 of the amendment that Flemming does not teach two cathodes. Yet, the Examiner in the final rejection identifies Flemming's two cathodes - left side and right side 13 (Figure 1). Further, Flemming clearly identifies plural cathodes and the influence cathode shapes have on the plasma configuration - "The shape of the cathodes contributes to the configuration of the field in chamber 20, and thus the shape of the plasma discharge." (column 3, lines 24-34). Applicant states in page 2 of the response that Flemming teaches "a single, circular cathode". There is no evidence in Flemming's Figure 1 or in Flemming's disclosure in support of Applicant's position. Additionally, Flemming teaches the influence of cathode shapes have on the plasma configuration - "The shape of the cathodes contributes to the configuration of the field in chamber 20, and thus the shape of the plasma discharge." (column 3, lines 24-34). Applicant further states "Flemming nowhere teaches an apparatus including a set of magnets." (Page 2 bottom). However, as stated in the final rejection the Examiner maintains Flemming's teaching of a set of electromagnets (14; Figure 1; column 2, lines 50-65; column 3, lines 25-26). It is the Examiner's opinion that Flemming's "coil" magnets refer to Flemming's conductor DC source 23 that coil around Flemming's electromagnets 14.

In response to Applicant's statement that Flemming does not teach "a magnetic field exiting from one of the cathodes and entering the other of the cathodes, thereby crossing the gap; said magnetic field comprising a first magnetic field portion crossing the gap and passing through said first exposed cathode surface" - when anode 52 of Figure 3 is used in place of anode 11 of Figure 1, nearly identical structure is reached with applicant's invention. As a result, when the structure recited in the reference is substantially identical to that of the claims, claimed properties or functions are presumed to be inherent (In re Best, 562 F.2d 1252, 1255, 195 USPQ 430, 433 (CCPA 1977); MPEP 2112.01).

In response to Applicant's remaining arguments, the Examiner directs Applicant to the body of the rejections provided in the Final Action.



JEFFRIE R. LUND
PRIMARY EXAMINER